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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
BOGDAN SERBAN : EXAMINER: STONE, R.M.
SERIAL NO: 10/553,657 :
FILED: OCTOBER 14, 2005 : GROUP ART UNIT: 2629
FOR: POSITION DETECTION DEVICE :

REPLY BRIEF UNDER 37 CFR § 41.41

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The present Reply Brief is presented in order to point out and respond to numerous errors in the Examiner's Answer (hereinafter EA) as to clearly improper and unreasonable interpretations of the teachings of the references relied on in the rejection of independent Claims 9, 16, 17, and 24 as being unpatentable over Asher in view of Eckert made under 35 U.S.C. § 103(a).

I. ERRONEOUS ASSERTIONS AND ARGUMENTS AS TO OBVIOUSNESS

A. The Examiner has misconstrued the claimed "a second end of said conducting elements is connected to a fourth terminal of said position detection device"

Page 15 of the EA includes a discussion of "connected." However, the Examiner fails to appreciate that "connected" must be construed in a manner consistent with how a person of ordinary skill in the art would interpret the claim language. The present application pertains to the electrical arts, and the Examiner cannot apply broad interpretations of "connected"

inconsistent without how that term would be understood by a person of ordinary skill in the electrical arts.

Page 13 of the EA states “the opposing end of the conductive trace 30 [of Asher] must also be connected to terminals 12 and 13 since both ends of conductive trace 30 are necessarily connected to each other as noted by Applicant (page 8 of the Appeal Brief).” Applicants make no such admission, and this is nothing more than a blatant attempt by the Examiner to bolster an incorrect position. Page 8 of the Appeal brief merely comments on the electrical potential of conductive trace 30, and makes no admissions regarding the connection of the ends of the conductive trace 30. Electric potential of a conductive trace in no way means that a person of ordinary skill in the art could consider the right end of conductive trace 30 to be necessarily connected to its left end in the manner the Examiner is doing. As shown by the marked-up version of Asher's Fig. 2 on page 9 of the Appeal Brief, the right end of conductive trace 30 is free and not connected to any terminal or other part of the touch sensor.

The position of the Examiner that the right end of conductive trace 30 is connected to a fourth terminal 13 through the conductive trace itself and its left end is unreasonably broad and improper because it is inconsistent with the understanding of a person of ordinary skill in the art. For example, under the Examiner's interpretation, the terminals of a battery would always be connected to each other, which if true would mean that the battery was in a constant state of short circuit. Ends or terminals of an electrical device can be understood to be free and unconnected from each other. A person of ordinary skill in the electrical art understands that the ends or terminals of a battery are not connected to each other unless there is a load connecting the terminals to each other. The nonsensical position of the Examiner leads to a clearly erroneous position for the meaning of “a second end of said

conducting element is **connected** to a fourth terminal of said position detection device" in the electrical arts.

A conductive trace itself cannot be viewed as connecting its' first end to its' second end in the context of the claimed invention. Otherwise, a person of ordinary skill in the art could not describe a wire, battery, or conductive trace as having a free or unconnected end.

B. A proper understanding of "connected."

As discussed on pages 10-11 of the Appeal Brief, claim language is not read in a vacuum, but is understood in view of its specification and drawings, and from the perspective of a person of ordinary skill in the art. In light of Applicant's specification and drawings, a person of ordinary skill in the art would understand that a connection for an **end** of a conducting element to a terminal to be a direct or indirect connection of the **end** to that terminal **not through the conducting element itself**. Otherwise, as noted-above, you end up with a nonsensical position and technically incorrect position in the electrical arts.

C. The Examiner ignores the description in Asher

The Examiner's interpretation is inconsistent with the description of Asher. Col. 8, lines 26-29 of Asher states "fixed resistor 32 overlays **one** end" of the conductive traces. A person of ordinary skill in the art would understand this to mean that only **one** end of the conductive traces is connected to fixed resistor 32.

Furthermore, while Asher does not use the term "free end," this is clearly shown in Asher's Fig. 2. Page 16 of the EA states "*Asher* never discusses that only one end is connected." Applicants refer to the above-noted quote from Asher and what is plainly shown in Asher's Fig. 2.

D. The Examiner ignores the case law cited in the Appeal Brief

Applicants' Appeal Brief referred to case law of both the Board of Appeals and its reviewing court that suggest limits on the Examiner's ability to make-up unreasonably broad

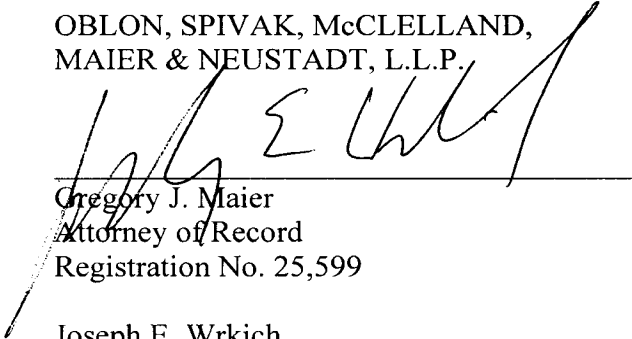
interpretations of claim language. The Examiner failed to respond to such arguments, which reinforces the weakness of the Examiner's unreasonably broad interpretation.

II. CONCLUSION

In light of the above-noted errors, the reversal of all applied grounds of rejection is respectfully submitted to be in order and respectfully requested.

Respectfully submitted,

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